

Appl. No. 10/676,216
Amdt. dated 04/10/2006
Reply to Office action of 03/14/2006

REMARKS/ARGUMENTS

Reconsideration is requested of all rejections based on the judicially created doctrine of obviousness-type double patenting :

With respect to claims 3-5 and 10-14, rejected as being unpatentable over claims 1-11 and 19-22 of US 6,461,563:

Examiner continues to argue that the pending claims are encompassed by the granted claims. In response to this argument we had previously written as follows:

“In defense of claims 3-5, we note that claims 1-11 (of 6,461,563) are limited to two mixtures (feedstocks) whereas claims 3-5 are for an unlimited number of mixtures. It is by no means obvious that claims 1-11 can be extended to more than two mixtures. In general, without the additional restriction of the mixtures differing in only one functional property (see lines 3-5 of claim 3), any attempts to extend claims 1-11 to more than two mixtures will fail.

In defense of claims 10-14, we note that claims 19-22 (of 6,461,563) teach a differential shrinkage (after sintering) of 1% or less between the mixtures, whereas claim 10 teaches a differential shrinkage of at least 10% between two of the mixtures..

Additionally, claim 10 teaches that the third feedstock is given the specific shape of a cylindrical pin-cushion. This is necessary if the end product is to be a wire die and is not, per se, an obvious extension of claim 19.”

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It is not sufficient for examiner to reject our response by simply repeating his original grounds for rejection. We respectfully request that he answer the points we have raised, as follows:

With respect to pending claims 3-5, the additional restriction that the mixtures must differ in only one functional property is not present in the granted claims. Furthermore, examiner offers no rebuttal of our statement that any attempts to extend granted claims 1-11 to more than two mixtures will fail.

Pending claims 10-14 teach a differential shrinkage (after sintering) of 1% or less between the mixtures, whereas granted claim 10 teaches a differential shrinkage of at least 10% between two of the mixtures. This is hardly a trivial difference. Nor does 'at least 10%' include 1% or less.

With respect to claims 3-5 and 10-14, rejected as being unpatentable over claims 1-6 of US 6,660,225:

We have pointed out that the present invention is a divisional application of US 6,660,225 and was filed before US 6,660,225 issued. This makes its rejection for the stated grounds invalid. Examiner's attention was drawn to 35 USC 121 which states that "A patent issuing on an application with respect to which a requirement for restriction under this section has been made, or on an application filed as a result of such a requirement, shall not be used as a reference either in the Patent and Trademark Office or in the courts against a divisional application or against the original application or any patent issued on either of them, if the divisional application is filed before the issuance of the patent on the other application."

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Again, examiner has made no attempt to respond to our argument but has simply repeated his original argument. If examiner believes that we have misread 35 USC 121 and/or that it is not applicable in this case, we respectfully request that he share his reasoning with us.

Reconsideration is requested of all rejections based on 35 USC 103:

For this rejection of claims 3-5 examiner relies on Seyama et al. In view of Hiraoka et al. In his listing of Seyama's main process steps examiner omits a key feature of the present invention, namely step (a) of claim 3, which reads as follows:

"(a) providing a group of mixtures of powdered materials, each member of said group having, after sintering, a functional property that is different from any functional property possessed, after sintering, by any other member of the group"

We respectfully request that examiner state where, in Seyama or Hiraoka, this restriction is to be found.

Examiner has also rejected claims 10-14, relying on Bieberich in view of Seyama and further in view of Hiraoka.

Examiner begins by admitting that Bieberich teaches a different process from that disclosed by the present invention but notes that the end products are similar. He then argues that, since Seyama teaches how to form an object comprising two different materials by means of successive injection molding steps followed by sintering, it would be obvious to use Seyama's method to form Bieberich's object.

We respectfully disagree because Seyama's process does not include the key novel feature of our claim 10 which is the use of a third feedstock as a sacrificial volume

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which, after sintering, is fully removed. This can be found in the final clause of claim 10 and reads as follows:

“removing all material that was formed from said third powdered mixture, thereby forming the wire die.”

There is nothing in any of the references that examiner has cited to suggest not only using three feedstocks but, additionally, later removing the sintered product of said third feedstock.

In light of the response presented above, applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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